

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GREGORY GORRELL DESIGN, INC., : CIVIL ACTION
:
Plaintiff, :
: NO. 02-CV-3767
v. :
DAVID and CLAUDIA TUTTLEMAN, :
:
Defendants. :
:

**ANSWER OF DEFENDANTS TO COMPLAINT
AND AFFIRMATIVE DEFENSES**

Defendants David Tuttleman and Claudia Tuttleman (“Defendants”), by their attorneys Blank Rome Comisky & McCauley LLP, hereby answer the Complaint in the above matter as follows:

1. Admitted.
2. Admitted, except that David Tuttleman denies that his principal residence is at 8 Red Oak Road, Wilmington, Delaware.

JURISDICTION AND VENUE

3. Defendants deny the allegations of paragraph 3 as a legal conclusion to which no responsive pleading is required.
4. Defendants deny the allegations of paragraph 4 as a legal conclusion to which no responsive pleading is required.

FACTUAL BACKGROUND

5. Admitted.

6. Denied, except that the Defendants admit that they retained Gregory Gorrell Design, Inc. (“GGD”) in connection with the furnishing and interior design of a home in Ocean City, Md.

7. Denied, except that Defendants admit that they agreed to pay GGD \$6,000 a month for GGD’s full-time, or near full-time, services for a period of four six to nine months during which time the project was to be completed. Defendants also admit that Defendants agreed to reimburse GGD’s reasonable, authorized and properly receipted out of pocket costs in purchasing materials, products and furnishings for the project.

8. Denied.

9. Denied.

10. Denied.

COUNT I – BREACH OF CONTRACT

11. Defendants incorporate their responses to paragraphs 1-10 above as if set forth fully herein.

12. Denied.

13. Denied.

WHEREFORE, Defendants respectfully request that this Court enter judgment in favor of the Defendants and against the Plaintiff Gregory Gorrell Design, Inc. and award the Defendants attorneys’ fees, costs and such further amounts as this court deems just and proper.

COUNT II – VIOLATION OF 17 U.S.C. § 101, et seq.

14. Defendants incorporate their responses to paragraphs 1-13 above as if set forth fully herein.

15. Denied.

16. Defendants deny the averments of paragraph 16 as legal conclusions to which no responsive pleading is required.

17. Defendants deny the averments of paragraph 17 as legal conclusions to which no responsive pleading is required.

18. Denied.

WHEREFORE, Defendants respectfully request that this court enter judgment in favor of the Defendants and against the Plaintiff Gregory Gorrell Design, Inc. and award the Defendants attorneys' fees, costs and such further amounts as this Court deems just and proper.

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim for violation of United State copyright laws, 17 U.S.C. § 101, *et seq.*, in that the project in question is not an original work fixed in a tangible medium of expression.

SECOND AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim for violation of United State copyright laws, 17 U.S.C. § 101, *et seq.*, in that such laws do not require that the Defendants ensure that GGD is credited for the work in a magazine article.

THIRD AFFIRMATIVE DEFENSE

Defendants made all required payments under any agreement between the parties.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claim is barred by the statute of frauds.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff waived any claims that it may have against Defendants.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claim under the United States copyright laws is barred by the doctrine of work made for hire.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claim is barred in whole or in part by applicable statute of limitations.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff fails to state a claim upon which relief can be granted.

Respectfully submitted,

BLANK ROME COMISKY & McCAULEY LLP

By:

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Attorney for Defendants,
David Tuttleman and Claudia Tuttleman

Dated: August 14, 2002

CERTIFICATE OF SERVICE

I, Michael K. Sullivan, hereby certify that a true and correct copy of the foregoing Answer of Defendants to Complaint and Affirmative Defenses was served on August 14, 2002, via U.S. Mail, postage prepaid, upon the following counsel of record:

Scott M. Waldman, Esquire
Wolf, Block, Schorr and Solis-Cohen, LLP
1650 Arch Street, 22nd Floor
Philadelphia, PA 19102

MICHAEL K. SULLIVAN